

2nd Sub. S.B. 223
TAX AMENDMENTS

Representative **David Clark** proposes the following amendments:

1. *Page 2, Lines 42 through 43:*

42 ▶ enacts ~~{a}~~ nonrefundable retirement tax ~~{credit}~~ credits under the Single Rate
 Individual
43 Income Tax Act;

2. *Page 4, Lines 92 through 93:*

92 This bill provides effective dates and provides for retrospective operation .
93 This bill provides revisor instructions.
This bill coordinates with H.B. 27, Sales and Use Tax Modifications, by merging substantive amendments.

3. *Page 6, Lines 178 through 179:*

178 ~~{H}~~ (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and
179 ~~{H}~~ (B) the amount appropriated by the Legislature to the fund for the fiscal year.

4. *Page 17, Lines 503 through 505:*

503 (2) (a) (i) For taxable years beginning on or after January 1, ~~{2008}~~ 2007 , a business entity that
504 purchases and completes or participates in the financing of a residential energy system to
505 supply all or part of the energy required for a residential unit owned or used by the business

5. *Page 17, Lines 514 through 515:*

514 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
515 completed and placed in service on or after January 1, ~~{2008}~~ 2007 .

6. *Page 18, Lines 523 through 524:*

523 (b) (i) For taxable years beginning on or after January 1, ~~{2008}~~ 2007 , a business entity that
524 purchases or participates in the financing of a commercial energy system situated in Utah is

7. *Page 18, Lines 538 through 539:*

538 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy

539 system completed and placed in service on or after January 1, {~~2008~~ 2007 .

8. *Page 18, Lines 548 through 549:*

548 of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

549 (c) (i) For taxable years beginning on or after January 1, {~~2008~~ 2007 , a business entity that

9. *Page 19, Lines 567 through 568:*

567 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy

568 system completed and placed in service on or after January 1, {~~2008~~ 2007 .

10. *Page 19, Lines 576 through 578:*

576 (iii) If the amount of a tax credit under Subsection (2)(a) {~~or (b)~~ exceeds a business

577 entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the

578 liability may be carried {~~over~~ forward for a period which does not exceed the next four taxable
years.

11. *Page 20, Lines 595 through 596:*

595 (4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax

596 Review Commission shall review {~~the~~ each tax credit provided by this section and make

12. *Page 27, Lines 825 through 827:*

825 (2) For taxable years beginning on or after January 1, [2001] {~~2008~~ 2007 , [but beginning on

826 or before December 31, 2006;] a claimant, estate, or trust may claim a nonrefundable tax credit

827 as provided in this section if:

13. *Page 28, Lines 843 through 844:*

843 (c) The tax credit under this section is allowed for any residential energy system

844 completed and placed in service on or after January 1, [2001] {~~2008~~ 2007 [, but on or before

14. *Page 29, Line 869:*

869 (b) (i) For taxable years beginning on or after January 1, [2001] {~~2008~~ 2007 , [but beginning

15. *Page 29, Lines 877 through 878:*

877 (iii) The tax credit under this Subsection (6) is allowed for any residential energy

878 system completed and placed in service on or after January 1, [2001] {~~2008~~ 2007 [, but on or before

16. Page 31, Lines 942 through 943:

942 (11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
943 Review Commission shall review ~~{the}~~ each tax credit provided by this section and make

17. Page 32, Line 977:

977 (2) (a) (i) For taxable years beginning on or after January 1, ~~{2008}~~ 2007, a business entity that

18. Page 33, Lines 992 through 993:

992 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy
993 system completed and placed in service on or after January 1, ~~{2008}~~ 2007.

19. Page 33, Line 1003:

1003 (b) (i) For taxable years beginning on or after January 1, ~~{2008}~~ 2007, a business entity that

20. Page 34, Lines 1036 through 1037:

1036 (6) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
1037 Review Commission shall review ~~{the}~~ each tax credit provided by this section and make

21. Page 38, Lines 1156 through 1160:

1156 (4) The tax credit allowed by Subsection (2) shall be reduced by ~~{\$.014}~~ \$.013 for each dollar
1157 by which a claimant's state taxable income exceeds:
1158 (a) for a claimant who has a single filing status, ~~{\$14,000}~~ \$12,000 ;
1159 (b) for a claimant who has a head of household filing status, ~~{\$21,000}~~ \$18,000 ; or
1160 (c) for a claimant who has a joint filing status, ~~{\$28,000}~~ \$24,000 .

22. Page 39, Line 1178 through Page 40, Line 1207:

1178 59-10-1206.2. Definitions -- Nonrefundable retirement ~~{credit}~~ tax credits .

1179 (1) As used in this section:

1180 (a) "Eligible age 65 or older retiree" means a resident or nonresident individual, regardless of
whether

1181 that individual is retired, who:

- 1182 (i) is 65 years of age or older;
1183 (ii) was born on or before December 31, 1952; and
1184 (iii) has state taxable income under this part.

(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:

(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65

retiree; and

(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;

(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or

(III) paid by:

(Aa) the United States;

(Bb) a state or a political subdivision of a state; or

(Cc) the District of Columbia.

(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.

(c) "Eligible under age 65 retiree" means a resident or nonresident individual, regardless of whether that individual is retired, who:

(i) is younger than 65 years of age;

(ii) was born on or before December 31, 1952;

(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section; and

(iv) has state taxable income under this part.

1185 ~~{(b)}~~ (d) "Head of household filing status" is as defined in Section 59-10-1206.1.

1186 ~~{(c)}~~ (e) "Joint filing status" is as defined in Section 59-10-1206.1.

1187 ~~{(d)}~~ (f) "Married filing separately status" means a married individual who:

1188 (i) does not file a single return jointly with that individual's spouse; and

1189 (ii) files a single return.

1190 ~~{(e)}~~ (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older retiree's or eligible under age 65 retiree's :

1191 (i) adjusted gross income for the taxable year for which ~~{the eligible retiree claims}~~ a tax credit is claimed under this section; and

1192 (ii) any interest income that is not included in adjusted gross income for the taxable

1193 year described in Subsection (1) ~~{(e)}~~ (g) (i).

1194 ~~{(f)}~~ (h) "Single filing status" means a single individual who files a single return.

1195 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) ~~{and (4)}~~ through

1196 (6) ,

1197 for taxable years beginning on or after January 1, 2008 ~~{.}~~ :

1198 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of ~~{\$600}~~ \$375 against taxes otherwise due under this part ~~{.}~~ ; or

(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:

(i) \$375; or

(ii) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section.

1199 (3) ~~{An eligible retiree may not carry forward or carry back a}~~ A tax credit under this
1200 section may not be carried forward or carried back .

1201 (4) The sum of the tax credits allowed by Subsection (2) (a) claimed on one return filed
1202 under this part shall be reduced by ~~{\$.04}~~ \$.025 for each dollar by which an eligible age 65 or
older retiree's modified
1203 adjusted gross income exceeds:

1204 (a) for an eligible age 65 or older retiree who has a married filing separately status, \$16,000;

1205 (b) for an eligible age 65 or older retiree who has a single filing status, \$25,000; or

1206 (c) for an eligible age 65 or older retiree who has a head of household filing status or a joint filing
1207 status, \$32,000.

(5) The sum of the tax credits allowed by Subsection (2)(b) claimed on one return filed under this part shall be reduced by \$.025 for each dollar by which an eligible under age 65 retiree's modified adjusted gross income exceeds:

(a) for an eligible under age 65 retiree who has a married filing separately status, \$16,000;

(b) for an eligible under age 65 retiree who has a single filing status, \$25,000; or

(c) for an eligible under age 65 retiree who has a head of household filing status or a joint filing status, \$32,000.

(6) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.

23. Page 160, Lines 4951 through 4953:

4951 Section 37. Effective dates -- Retrospective operation .

4952 (1) Except as provided in Subsections (2) through ~~{(7)}~~ (9) , this bill takes effect on January
4953 1, 2008.

24. Page 161, Lines 4964 through 4975:

4964 ~~{(d) Section 59-10-1014;}~~

4965 ~~{(e)}~~ (d) Section 59-10-1202; and

4966 ~~{(f)}~~ (e) Section 59-10-1203.

4967 (6) The enactments of the following take effect for taxable years beginning on or after
4968 January 1, 2008:

4969 ~~{(a) Section 59-10-1106;}~~

4970 ~~{(b)}~~ (a) Section 59-10-1206.1;

4971 ~~{(c)}~~ (b) Section 59-10-1206.2; and

4972 ~~{(d)}~~ (c) Section 59-10-1206.9.

4973 (7) The repeal and reenactment of Section 59-7-614 :

(a) takes effect on April 30, 2007; and

(b) has retrospective operation for taxable years

4974 beginning on or after January 1, {2008} 2007 .

(8) The amendments to Section 59-10-1014:

(a) take effect on April 30, 2007; and

(b) have retrospective operation for taxable years beginning on or after January 1, 2007.

(9) The enactment of Section 59-10-1106:

(a) takes effect on April 30, 2007; and

(b) has retrospective operation for taxable years beginning on or after January 1, 2007.

25. *Page 161, Lines 4977 through 4979:*

4977 publication, the Office of Legislative Research and General Counsel shall replace the reference

4978 in Subsection 26-9-4(5)(a)(i)(A) from " {by} this bill" to the bill's designated chapter and section

4979 number in the Laws of Utah.

Section 39. Coordinating S.B. 223 with H.B. 27 -- Merging substantive amendments.

If this S.B. 223 and H.B. 27, Sales and Use Tax Modifications, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah code database for publication, as part of merging the tax rate changes enacted by this S.B. 223, modify Section 59-12-103 that takes effect on January 1, 2008, to:

(1) replace the tax rate of 2.75% in Subsection 59-12-103(2)(c)(i) with 1.75%; and

(2) replace the tax rate of 2.75% in Subsection 59-12-103(2)(d)(i)(C) with 1.75%.